

PUBLIC HEALTH DEPARTMENT[641]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 137.119, the Iowa Department of Public Health hereby gives Notice of Intended Action to amend Chapter 77, “Local Boards of Health,” Iowa Administrative Code.

The purpose of Chapter 77 is to define the structure, powers, and duties of local boards of health. The chapter also describes a process for voluntarily merging local boards of health into a district board of health. To date, this process has not been utilized to completion. Counties that have attempted to form a district board of health have reached points of impasse, some of which were related to Iowa Code requirements that were too inflexible. When 2016 Iowa Acts, Senate File 2159, was passed, it removed unnecessary barriers to district formation and cumbersome requirements that were part of the application process. It also removed references to the Iowa public health standards since local boards of health are pursuing national accreditation instead.

The proposed amendments reflect the changes that 2016 Iowa Acts, Senate File 2159, made to Iowa Code chapter 137 and allow more flexibility for determining the district board’s membership and makeup, modify documentation required to be submitted to the Department, limit the Department’s role in assessing the application for completeness, and permit the newly merged entity to subcontract for a treasurer or auditor if necessary. A new rule is proposed to allow city boards of health to voluntarily dissolve by submitting notice to the Department.

Any interested person may make written suggestions or comments on the proposed amendments on or before October 18, 2016. Such written comments should be directed to Lindsay Schmauss, Iowa Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319. E-mail may be sent to lindsay.schmauss@idph.iowa.gov.

A public hearing is scheduled for October 18, 2016, from 3 to 4 p.m. in Room 415 on the fourth floor of the Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 137 and 2016 Iowa Acts, Senate File 2159.

The following amendments are proposed.

ITEM 1. Rescind the definition of “Iowa public health standards” in rule **641—77.2(137)**.

ITEM 2. Amend subrule 77.3(2) as follows:

77.3(2) Policy development: Exercise responsibility to serve the public interest in the development of comprehensive public health policies. This core function can be accomplished by promoting use of a scientific knowledge base in decision making about public health and by taking the lead in public health policy development.

a. A local board of health may perform the following essential public health services:

- (1) Develop policies and plans that support individual and community health efforts; and
- (2) Research new insights and innovative solutions to health problems and health threats.

b. A local board of health shall perform the following essential public health services:

- (1) Enforce laws and regulations that protect public health and enforce lawful orders of the department;

(2) Make and enforce reasonable rules and regulations not inconsistent with the law, ~~or the rules of the state board, or the Iowa public health standards~~ as may be necessary for the protection and improvement of the public health; and

(3) Employ persons as necessary for the efficient discharge of ~~its~~ the board's duties. Employment practices shall meet the requirements of Iowa Code chapter 8A, subchapter IV, or any civil service provision adopted under Iowa Code chapter 400.

ITEM 3. Rescind rule 641—77.4(137) as follows:

~~**641—77.4(137) Local boards of health—Iowa public health standards.** Local boards of health may:~~

~~1. Designate an agency to assure compliance with the Iowa public health standards in the jurisdiction.~~

~~2. Demonstrate a commitment to comply with the Iowa public health standards.~~

~~3. Request at least annually reports from organizations that provide public health services within the jurisdiction.~~

ITEM 4. Renumber rules ~~641—77.5(137)~~ to ~~641—77.7(137)~~ as ~~641—77.4(137)~~ to ~~641—77.6(137)~~.

ITEM 5. Adopt the following new rule 641—77.7(137):

641—77.7(137) Dissolution of city boards. A city board of health may voluntarily dissolve by submitting notice to the department. The notice shall set an effective date for the action.

ITEM 6. Amend rule 641—77.8(137) as follows:

641—77.8(137) District boards Request to form district board of health. The county boards of health of any two or more geographically contiguous counties may at any time submit to the department a written request to form a district board of health.

77.8(1) A request to form a district board of health shall be executed by the county ~~boards~~ board of supervisors and the county ~~boards~~ board of health for each county comprising the proposed district.

77.8(2) A request to form a district board of health shall be submitted to the department and shall be completed on the department's application form. The application form shall include:

a. A written narrative that explains how the formation of a district board of health will ~~increase organizational capacity and attain the capability~~ to provide population-based and personal health services compared with operating as local boards of health.

~~*b.* A written narrative that details the infrastructure capability of the proposed district board of health to deliver core public health functions, provide essential public health services, and comply with Iowa public health standards.~~

e. b. The composition of the district board of health, including the number of members each county shall appoint pursuant to Iowa Code section ~~435.105~~ 137.105 and the total number of members on the district board of health.

~~*c.*~~ *c.* Proof of approval by all county boards of supervisors and county boards of health involved in the request to form a district and of the elements included in the formation plan.

~~*d.*~~ *d.* A service delivery plan ~~to include each component of the public health standards~~. The service delivery plan shall detail how population-based and environmental health services will be delivered throughout the district.

~~*f.*~~ *e.* The budget and fiscal plan for the proposed district health department. The budget plan shall include an estimate of the proposed expenditures and revenues and an allocation of the revenue responsibilities of each of the counties participating in the proposed district.

~~*g.*~~ *f.* A table of organization.

~~*h.*~~ *g.* A personnel system description, including identification of the district health department treasurer and district health department auditor and a section which addresses the employment issues contained in Iowa Code section 137.110.

~~i. h.~~ The location of the district health department offices and workforce throughout the jurisdiction. The request shall include a map showing district boundaries.

~~j. i.~~ An inventory of the property and equipment in the custody of each county health department and a description as to whether such property and equipment shall remain in the custody of the county health department or shall be transferred to the district health department to become property of the district health department. Property and equipment include any item which costs more than \$5,000.

~~k. j.~~ An information technology (IT) plan ~~that details the formation of a centralized IT department able to serve the needs of the proposed district health department.~~

~~l. k.~~ A proposed date upon which the district board of health shall be formed and established and a timeline for the adoption of district board of health rules and regulations.

ITEM 7. Amend rule 641—77.9(137) as follows:

641—77.9(137) Approval Review, approval or denial of district board of health formation.

77.9(1) to 77.9(4) No change.

77.9(5) The state board of health has the authority to deny formation of a district board of health if the application fails to conform with Iowa Code chapter 137 as amended by 2016 Iowa Acts, Senate File 2159, or this chapter.

77.9(6) The department will notify, in writing, all local boards of health in the proposed district of the reason and rationale for the denial of the district board of health formation within 30 days of the decision.

77.9(7) The local boards of health in the proposed district shall have the right to request reconsideration of the decision by submitting the request to the department within 30 days of receiving notice of the decision.

77.9(8) The state board of health shall reconsider the request by the local boards of health at its next regularly scheduled meeting. The reconsideration shall not constitute a contested case hearing. The state board of health's final decision following reconsideration shall constitute final agency action pursuant to Iowa Code section 17A.19, and judicial review of any such decision shall be treated as other agency action.

ITEM 8. Rescind rule 641—77.10(137) as follows:

~~**641—77.10(137) Denial of district board of health formation.** The department and the state board of health have the authority to deny formation of a district board of health. The department is responsible for assessing the application form for completeness and accuracy. The state board of health has the authority to deny formation of a district board of health if the application does not show sufficient organizational capacity to deliver core public health functions and essential public health services, does not ensure compliance with the Iowa public health standards, or otherwise fails to conform with Iowa Code chapter 137 or this chapter.~~

~~**77.10(1)** The department will notify, in writing, all local boards of health in the proposed district of the reason and rationale for the denial of the district board of health formation within 30 days of the decision.~~

~~**77.10(2)** The local boards of health in the proposed district shall have the right to request reconsideration of the decision by submitting the request to the department within 30 days of receiving notice of the decision.~~

~~**77.10(3)** The state board of health shall reconsider the request by the local boards of health at its next regularly scheduled meeting. The reconsideration shall not constitute a contested case hearing. The state board of health's final decision following reconsideration shall constitute final agency action pursuant to Iowa Code section 17A.19, and judicial review of any such decision shall be treated as other agency action.~~

ITEM 9. Renumber rules **641—77.11(137)** and **641—77.12(137)** as **641—77.10(137)** and **641—77.11(137)**.